

REMARKS

The Examiner is respectfully requested to enter this Reply After Final in that it raises no new issues. Alternatively, the Examiner is respectfully requested to enter this Reply After Final in that it places the application in better form for Appeal.

Status of the Claims

Claims 14-26 are currently pending in the above identified application. Claim 18 has been canceled. No claims have been added. Claim 20 has been amended to insert a sequence identification number for the peptide sequence. Claim 19 has been amended to change dependency. Claim 1 has been amended to recite that the bacteria have fimbriae and that the method is directed to detection of fimbrial antigens which are expressed by the bacterial. Support for this amendment is found in original claims 5 and 6.

Objection to Abstract

Applicants resubmit herewith the Abstract of the disclosure. Please find the abstract attached on a separate sheet. As such, the objection should be withdrawn.

Objection to Drawings

Since the Examiner has not indicated in the Office Action that the corrections to the drawings may not be held in abeyance, Applicants submit that corrected drawings will be filed upon receipt of a Notice of Allowance.

Objection to Claims

The Examiner objects to claim 20 for not reciting a sequence identification number for the peptide sequence. Applicants submit amendments to claim 20 to insert a sequence identification number for the peptide sequence. As such, the rejection should be withdrawn.

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejects claims 14-26 as not enabled by the specification. The Examiner rejects the scope of the claims. Applicants traverse the rejection and respectfully request the withdrawal thereof.

Applicants submit that the above claim amendments amending the claims to recite "A method for detecting bacteria having fimbriae. . . by detecting fimbrial antigens" overcomes the rejection. The above claim amendment narrows the scope of the claims to exclude all bacteria and only include bacteria having fimbrial antigens. Although the examples are limited to Salmonella, Applicants submit that one of ordinary skill in the art can easily determine bacteria

with fimbrial antigens to be able to practice the present invention without undue experimentation. As such, Applicants respectfully request that the rejection be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

The Examiner rejects claim 14 as indefinite for not reciting specifically the metes and bounds of the claimed invention. The Examiner rejects the phrases, "soon after inoculation", "before an actual growth phase" and "in the beginning of the growth phase". Applicants traverse the rejection and respectfully request the withdrawal thereof.

Applicants submit that one of ordinary skill in the art would know without undue experimentation when each of the time periods begins. As such, the phrases are descriptive and definite as to the specific time periods. It is not necessary to define the time periods in numerical real time. As such, Applicants respectfully request that the rejection be withdrawn.

Rejection under 35 U.S.C. § 102(b)

The Examiner rejects claims 14-17 and 21-26 as anticipated by Van Poucke. Applicants traverse the rejection and respectfully request the withdrawal thereof.

Applicants submit that the present invention is distinguished from Van Poucke by the amount of time for detection of the bacteria. Van Poucke takes 31 hours to detect the bacteria in the

foodstuff. However, the present invention is directed to a method of detecting bacteria having fimbrial antigens within a time period of 3 to 10 hours. Although, some of the individual stages of the van Poucke assay take somewhere in the range of 4 to 8 hours, the entire assay, including the preenrichment step, takes at the very least 29 hours to complete the detection process. The present invention does not have such a preenrichment step. As such, the present invention is distinguished from Van Poucke on the elapsed time for detection. Thus, the rejection should be withdrawn.

Rejection under 35 U.S.C. § 103(a)

The Examiner rejects claims 14-26 as obvious over Van Poucke in combination with Thorns. Applicants traverse the rejection and respectfully request the withdrawal thereof.

Applicants submit that no *prima facie* case of obviousness has been made in light of the above comments regarding Van Poucke. Since Van Poucke does not disclose detecting the bacteria within 3 to 10 hours after the onset of cultivation, the combination of references still does not disclose or suggest all the element of the present invention. Thorns does not add any teaching about accelerating the Van Poucke process to meet the limitations of the present invention. As such, one of ordinary skill in the art would not be motivated to arrive at the present invention from the

combination of disclosures from Van Poucke and Thorns. Thus, Applicants respectfully request that the rejection be withdrawn.

Conclusion

As Applicants have addressed and overcome all rejections in the Office Action, Applicants respectfully request that the rejections be withdrawn and that the claims be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

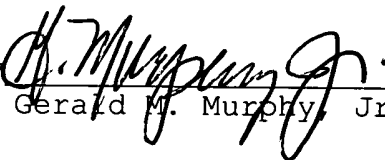
Pursuant to the provisions of 37 C.F.R. § 1.17 and 1.136(a), Applicants hereby petition for an extension of three (3) months to September 29, 2002 for the period in which to file a response to the outstanding Office Action. The required fee of \$460.00 is attached to the Notice of Appeal being filed concurrently herewith.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By


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Attachment: Version with Markings to Show Changes Made

(Rev. 02/20/02)

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE ABSTRACT OF THE DISCLOSURE:

An Abstract has been attached hereto as the last page of the Reply.

IN THE CLAIMS:

Claim 18 has been canceled.

The claims have been amended as follows:

14. (Amended) A method for detecting bacteria having fimbriae, comprising detecting bacteria having fimbriae from a cultivation medium within the time period of 3 to 10 hours from the onset of cultivation, by detecting fimbrial antigens which are expressed soon after inoculation into the medium, and before an actual growth phase of the bacteria or in the beginning of the growth phase.

19. (Amended) The method according to claim 14 [18], wherein the fimbrial proteins are type 1 fimbrial proteins or comparable to them.

20. (Amended) The method according to claim 14, wherein the microbial antigens are detected with antibodies, which have been produced against the synthetic peptide sequence Ala Ser Phe Thr Ala

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Ile Gly Asp Thr Thr Ala Gln Val Pro Phe Ser Ile Val SEQ ID NO: 1,
or a derivative thereof.